

THE U.S. DISTRICT COURT FOR  
THE EASTERN DISTRICT OF NORTH CAROLINA

FILED

Eddie Ray: Kahn,  
Petitioner

Case No. 5:12-HC-2149FL

SEP 4 2012

JULIE A. RICHARDS, CLERK  
US DISTRICT COURT, EDNC  
BY  DEP CLK

v.

Jonathan C. Miner,  
Petitioner

NOTICE AND DEMAND TO CHIEF JUDGE JAMES  
C.DEVER III FOR VERIFICATION OF JUDGE  
LOUISE FLANAGAN'S ARTICLE III STATUS

By filing my Common Law Writ of Habeas Corpus Ad Subjiciendum in this federal court, I have entered into an arrangement with the federal government, correct? However, the United States Supreme Court, in Federal Crop Ins. Corp. v. Merrill, 332 US 380, warned the unwary: **"Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of the limitations upon his authority".**

I have good reason to believe that Judge Flanagan is not an Article III judge. An Article III judge is one whose office was created by section 3 of the Judiciary Act of 1789 and took the Oath of Office found in section 8 of that same Act. Additionally, according to Article III of the Constitution of the United States of America (CUSA), the judge's compensation cannot be diminished while the judge is in office in any way, including by taxation (See Williams v. U.S., 77 L Ed. 1372 (1933)). Judge Flanagan files and pays individual income taxes every year, which would be illegal for an Article III judge to do.

I have copies of the Standard Form 61 Appointment Affidavits of the Chief Judge of the D.C. Court of Appeals, David Sentelle, and a copy of the SF 61 form for Richard Sippel, an Administrative Law Judge, who works for the FCC (Ex. ~~A1B~~). As can readily be seen, there are three Oaths on the form. Both men took the same Oaths. However, Judge Sentelle claims to be a Judicial branch employee. Judge Sippel claims to be and Executive branch employee.

But, the Oaths that both men took are Oaths that are only taken by someone entering into the Executive branch of government. As an Executive branch employee, the judge's office would have been created pursuant to Article IV, section 3 of the CUSA. Therefore, he would have no Article III "judicial power", as that would be a violation of the separation of powers doctrine. Consequently, that judge would not be able to hear a case brought in common law, such as mine.

Based on Judge Sentelle's Appointment Affidavit, I am assuming that Judge Flanagan is also an Executive branch employee and, therefore, incapable of hearing the Common Law case that I brought to the court and was assigned to her unless she can provide proof otherwise.

To accurately ascertain her correct status of either being an Article III judge or an Article IV, section 3 judge, I am hereby demanding a copy of Judge Flanagan's Appointment Affidavit. I also want a copy of her Oath of Office to make sure it is the one all district court judges are required to take and is found in Section 8 of the Judiciary Act of 1789.

In the Federal Crop Ins. Corp. case, the justices stated very clearly that if you did not challenge a federal officer as to proving that he/she was a "de jure" and not a "de facto" officer early on, you would not be able to get relief from an adverse decision when challenging it later.


Since the documents that I am asking for are public record documents, it should not be any problem for the Clerk of Court to provide them to me.

Conclusion: I refuse to have my case heard by a "de facto" officer. If Judge Flanagan cannot prove that her office was created by Section 3 of the Judiciary Act of 1789 and that she took the oath district court judges are required to take pursuant

to Section 8 of that Act, that will be proof positive that she is not an not an Article III judge and has no Congressional authority to hear a Common Law case.

If that should prove to be the case, I am asking for the Chief Judge of the Eastern District of North Carolina, James C. Dever III, to appoint a proper Article III judge to hear my case, so that justice can be served. I am currently falsely imprisoned and in involuntary servitude and am suffering daily as a result. A speedy issuance of the writ, as required by the court rules and the law, would be very much appreciated.

Date: August 30, 2012

  
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